

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Antonio Poole,

NO. C 10-04073 JW

Petitioner,

**ORDER TRANSFERRING
PETITION TO THE EASTERN DISTRICT
OF CALIFORNIA**

v.

United States of America,

Respondent.

Presently before the Court is Petitioner Antonio Poole's Request for Sentence Reduction, Correction or Modification Under U.S.S.G. 2D1.1 and the 18 to 1 Ratio. (Docket Item No. 1.) The Court construes Petitioners' Request as a Petition under 28 U.S.C. § 2255.


A prisoner who is in custody under the sentence of a federal court and who claims the right to be released may move the court to vacate, set aside, or correct the sentence on the grounds that (1) the sentence violates the Constitution or laws of the United States; (2) the court did not have jurisdiction to impose the sentence; or (3) the sentence was in excess of the maximum authorized by law or is otherwise subject to collateral attack. 28 U.S.C. § 2255. A motion to vacate, set aside, or correct sentence of a person in federal custody pursuant to § 2255 entitles a prisoner to relief: "[i]f the court finds that . . . there has been such a denial or infringement of the constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack."

A § 2255 claim must generally be brought before the same court that originally imposed sentence. 28 U.S.C. § 2255. Venue considerations, however, "may, and frequently will argue in favor of adjudication of the habeas claim in the jurisdiction where the habeas petitioner is confined."

1 Chatman-Bey v. Thornburgh, 864 F.2d 804, 813 (D.C. Cir. 1988). A court may therefore transfer a
2 petition to another district on the grounds of convenience. Braden v. 30th Judicial Circuit Court,
3 410 U.S. 484, 499 n.15. (1973.)

4 Here, Petitioner was originally sentenced by the federal district court in the Western District
5 of Tennessee. United States v. Poole, 2 Fed. Appx. 433, 435 (6th Cir. 2001). Moreover, Petitioner
6 is incarcerated in Herlong, California, which is located in the Eastern District of California.
7 Accordingly, pursuant to 28 U.S.C. § 2241(b), the Clerk of the Court shall immediately TRANSFER
8 this Petition to the United States District Court for the Eastern District of California.

9
10 Dated: September 17, 2010



JAMES WARE
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Antonio B. Poole
3 HERLONG FEDERAL CORRECTIONAL INSTITUTION
4 Inmate Mail/Parcels
P.O. BOX 800
HERLONG, CA 96113

5
6 **Dated: September 17, 2010**

Richard W. Wieking, Clerk

7
8 **By: /s/ JW Chambers**
9 **Elizabeth Garcia**
10 **Courtroom Deputy**